IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO.142 OF 2005,

Sion Kamgar Co-op. Housing
Society Ltd. ...Appellant

vs.

Jagdish V. Keni & Anr. ...Respondents

APPEAL FROM ORDER NO.144 OF 2005

Sion Kamgar Co-op.Housing
Society Ltd. ...Appellant

vs.

Mirabai Mahadeo Subhedar & anr. ...Respondents

APPEAL FROM ORDER NO.145 OF 2005

Sion Kamgar Co-op.Housing
Society Ltd. ...Appellant

vs.

Subhadra Vasant Shinde & anr. ...Respondents

APPEAL FROM ORDER NO.146 OF 2005

Sion Kamgar Co-op Housing
Society Ltd. ...Appellant

vs.

Vinod V. Keni & Anr. ...Respondents

APPEAL FROM ORDER NO.149 OF 2005

Sion Kamgar Co-op.Housing
Society Ltd. ...Appellant

vs.

Sunita Mahendra Subhedar & Anr. ...Respondents

Mr.R.V.Govilkar for the Appellant
Mr.N.A.Ghag with Mr.Naik for the Respondent No.1

CORAM: A.S.OKA,J.
DATE : MARCH 18, 2005.

P.C.:

1. By consent, Appeals are taken up for hearing forthwith. As facts of all the Appeals are more or less identical, reference is made to facts of Appeal from Order No.149 of 2005.

2. The order impugned is dated 3rd November 2004 by which Notice of Motion taken out by the Respondent No.1-original Plaintiff for temporary injunction has been made absolute by passing the following order :

"The defendant Nos.1 and 2 in all the above suits are hereby restrained from blocking the access of the plaintiffs to common W.C. situated in Plot No.126, C.S.No.6(part) Bhandarwada, Sion (East), Mumbai-22. . They are further restrained from demolishing the suit structures of the plaintiffs situated on the said plot and the common W.C. referred to by me hereinabove.

. This order shall remain in force till the disposal of all the suits.

. All the Motions stand disposed off.

. No order as to costs."

3. The learned Counsel appearing for the Appellant has made only one grievance. His grievance is that as a result of temporary injunction granted by the Trial Court restraining the Defendant Nos.1 and 2 i.e. Municipal Corporation of Greater Bombay and the Appellants herein from demolishing the suit structure situated on the plot in question and common W.C., the Municipal Corporation is prevented from taking action in respect of the suit structure and common W.C. in accordance with law.

4. The learned Counsel for the Respondent No.1 submitted that the suit structure and the common W.C.are not unauthorised. He, however, submitted that the impugned order does not come in the way of Municipal Corporation from taking any action in accordance with due process of law.

5. In view of these submissions made by the parties, the Appeal can be disposed of with clarification that notwithstanding with impugned Judgments and Orders, it will be open for the Respondent No.2 Corporation to take action against the suit structure and the common W.C. in accordance with law. It is obvious that the Appellant can always adopt due process of law in so far suit structure and common W.C. are concerned.

6. Hence, I pass the following order :

i) Impugned Judgments and Orders are confirmed subject to the modification that the impugned orders do not prevent the Appellant and the Respondent No.2-Corporation from taking any action in respect of the suit structure and the common W.C. in accordance with due process of law.

ii) Appeals are disposed of in above terms. There will no order as to costs.

iii) Parties to act upon an ordinary copy of this order.

JUDGE.